



2009 ASSEMBLY BILL 619

December 17, 2009 – Introduced by Representatives POCAN, SMITH, BERCEAU, HEBL, MILROY, PARISI, POPE-ROBERTS, A. WILLIAMS and ZEPNICK, cosponsored by Senators RISSER, LEHMAN, MILLER and SULLIVAN. Referred to Committee on Elections and Campaign Reform.

1 **AN ACT** *to create* 7.19, 7.21 (1m), 11.21 (18) and 11.55 of the statutes; **relating**
2 **to:** county, city, town, and village authority to create local elections boards and
3 to regulate the financing of campaigns for county, city, town, and village offices;
4 duties of municipal and county boards of election commissioners; and granting
5 rule-making authority.

Analysis by the Legislative Reference Bureau

Currently, state law regulates the financing of campaigns for both state and local offices. Under current law, neither a county nor a town has authority to regulate the financing of campaigns for local office. A city and a village may have this authority under constitutional home rule powers if the subject of the particular city ordinance is considered to be a “local affair.” This bill specifically authorizes a county, city, town, or village to enact ordinances regulating the financing of campaigns for county, city, town, or village office, respectively. An ordinance enacted under the bill becomes effective in the county, city, town, or village after the Government Accountability Board certifies that the ordinance is in compliance with the provisions of this bill. The significant aspects of the authority granted under the bill include the following:

Local regulation of campaign contributions

Current law limits the amount of contributions that may be given to and accepted by a candidate for local office. The maximum amount that an individual

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may contribute to a local campaign is the greater of \$250 or one cent times the population of the jurisdiction for which the candidate seeks office, but not more than \$3,000. The maximum amount that a committee other than a political party committee or legislative campaign committee may contribute to a local campaign is the greater of \$200 or three-fourths of one cent times the population of the jurisdiction for which the candidate seeks office, but not more than \$2,500. Current law also prohibits an individual from contributing an aggregate total of more than \$10,000 in a calendar year to all candidates for state and local office. Currently, for the purpose of determining compliance with contribution limitations, a contribution transferred from a conduit is treated as a contribution from the original contributor.

In addition, current law limits the aggregate amount of contributions that a candidate for local office may accept from all political committees, including political party committees. For candidates for county office in a county with a population of 500,000 or more (currently, Milwaukee County), these maximum aggregate amounts are approximately as follows:

1. County executive, \$175,200.
2. County supervisor, \$11,200.
3. Other county offices, \$70,100.

For candidates for city office in a first class city (currently, Milwaukee), these maximum aggregate amounts are approximately as follows:

1. Mayor, \$175,200.
2. City attorney, \$105,100.
3. Alderperson, \$11,200.
4. Other city offices, \$70,100.

For candidates for local office in a jurisdiction with a population of less than 500,000, these maximum aggregate amounts are approximately 65 percent of the greater of \$1,075, 53.91 percent of the annual salary for the office, or the product of \$32.35 times the population of the jurisdiction for which the candidate seeks office. However, these maximum aggregate amounts may not be more than \$28,000.

Furthermore, current law limits the aggregate amount of contributions that a candidate for local office may accept from committees other than political party committees. For candidates for county office in a county with a population of 500,000 or more, these maximum aggregate amounts are approximately as follows:

1. County executive, \$121,300.
2. County supervisor, \$7,800.
3. Other county offices, \$48,500.

For candidates for city office in a first class city (currently, Milwaukee), these maximum aggregate amounts are approximately as follows:

1. Mayor, \$121,300.
2. City attorney, \$72,800.
3. Alderperson, \$7,800.
4. Other city offices, \$48,500.

For candidates for local office in a jurisdiction with a population of less than 500,000, these maximum aggregate amounts are approximately 45 percent of the greater of \$1,075, 53.91 percent of the annual salary for the office, or the product of

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\$32.35 times the population of the jurisdiction for which the candidate seeks office. However, these maximum aggregate amounts may not be more than \$19,400.

This bill permits a county, city, town, or village to enact an ordinance that reasonably limits the making and acceptance of contributions with respect to elections for county, city, town, or village office, respectively. The ordinance may prohibit a candidate or a committee from accepting any contribution made or transferred in violation of the ordinance. In addition, similar to current law, the ordinance may reasonably limit the aggregate amount of contributions that a candidate may accept from committees. Similar to current law, the ordinance may also reasonably limit the amount of contributions that an individual or a committee may make with respect to a particular election and may limit the aggregate amount of contributions that an individual may make in a calendar year with respect to all elections for county, city, town, or village office, as is applicable. An ordinance enacted by a county may exempt from any limitation on contributions created under the ordinance contributions from a political party committee. Unlike current law, however, the maximum amount of allowable individual or committee contributions under the ordinance may be less than the maximum amount allowed under current law. In addition, unlike current law, the ordinance may limit the total amount of contributions that may be transferred by a conduit with respect to elections for county, city, town, or village office.

Local public financing of campaigns for local office

This bill permits a county, city, town, or village to enact an ordinance appropriating money to pay for campaign expenses of candidates for county, city, town, or village office, respectively. The ordinance may impose reasonable qualifications that a candidate must meet in order to receive funding under the ordinance. The ordinance also may require a candidate, as a condition of receiving funding under the ordinance, to agree to limit the candidate's contributions to his or her own campaign or the candidate's campaign spending or both.

Enforcement of local campaign finance ordinances

Under current law, every city and county with a population of greater than 500,000 must establish a city or county board of election commissioners. The city or county board of election commissioners has general authority to administer elections in the city or county. With certain exceptions, a city or county board of election commissioners must carry out all powers and duties assigned to the municipal or county clerks or the city or county board of canvassers under the election laws. Current law does not authorize a city or county with a population of 500,000 or less to establish a board of election commissioners.

This bill permits a city or county that enacts a local campaign finance ordinance under the bill and that has a population of 500,000 or less to create a local elections board to enforce the ordinance. In addition, the bill requires a city or county that enacts a local campaign finance ordinance under the bill and that has a population greater than 500,000 to enact an ordinance requiring the city or county board of election commissioners to enforce the local campaign finance ordinance. The ordinance providing for enforcement by either the local elections board or the city or

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county board of election commissioners may include provisions authorizing the local elections board or the board of election commissioners to do any of the following:

1. Investigate any alleged violation of the local campaign finance ordinance.
2. Receive and hear any verified complaint alleging a violation of the local campaign finance ordinance.
3. Issue subpoenas and administer oaths.
4. Refer any complaint or matter investigated by it to the appropriate prosecuting attorney.
5. Issue a formal opinion, upon request, regarding the application of the local campaign finance ordinance. Under the bill, the person requesting the formal opinion is not subject to prosecution under the ordinance for acting in accordance with the opinion if the material facts are as stated in the opinion.

In addition, the enforcement ordinance may direct the corporation counsel, or the district attorney in a county that does not have a corporation counsel, to provide counsel to a local elections board created by a county or to a county board of election commissioners regarding the administration of a local campaign finance ordinance enacted under the bill. The enforcement ordinance may also require a city, town, or village attorney to provide similar counsel to a city board of election commissioners or to a local elections board created by a city, town, or village, respectively. Furthermore, the enforcement ordinance may direct the county, city, town, or village clerk to provide administrative support services to the local elections board or city or county board of election commissioners.

Local campaign finance registration and reporting

Under current law, with limited exceptions, any candidate for local office and any organization or individual acting in support of or in opposition to any candidate for local office must file a registration statement and various campaign finance reports with the clerk or board of election commissioners in the most populous jurisdiction for which the candidate seeks office. This bill allows a county, city, town, or village to enact an ordinance requiring any organization that or individual who takes certain actions regarding the financing of an election for county, city, town, or village office to provide the county, city, town, or village with a copy of of any registration statement or campaign finance report that, under current law, the organization or individual files with another filing officer or agency.

In addition, this bill allows a county, city, town, or village to enact an ordinance requiring electronic filing of any campaign finance reports filed with the county, city, town, or village. This bill requires a county, city, town, or village enacting an electronic filing ordinance to provide an exemption from electronic filing for indigent persons. Currently, registrants who or that must file campaign finance reports with the Government Accountability Board in an electronic format may purchase the necessary computer software from the board. This bill requires the Government Accountability Board also to sell a copy of this software to each registrant who or that must file electronically with a county, city, town, or village.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 7.19 of the statutes is created to read:

2 **7.19 Local elections board.** (1) Any county or city having a population of
3 500,000 or less and any town or village may enact and enforce an ordinance
4 establishing a local elections board to oversee elections for county, city, town, or
5 village office, respectively. The ordinance shall specify the membership of the local
6 elections board and the method of appointment and terms of the members.

7 (2) An ordinance enacted under this section may contain any of the following:

8 (a) A provision authorizing the local elections board, on its own motion, to
9 investigate any alleged violation of an ordinance enacted under s. 11.55, with respect
10 to an election within the jurisdiction of the local elections board.

11 (b) A provision authorizing the local elections board to receive and hear any
12 verified complaint alleging a violation of an ordinance enacted under s. 11.55, with
13 respect to an election within the jurisdiction of the local elections board. The
14 ordinance may permit the local elections board to summarily dismiss any complaint
15 that it finds to be without merit.

16 (c) A provision authorizing a local elections board created by a county to refer
17 any complaint or matter investigated by it to the corporation counsel, or to the
18 district attorney if the county does not have a corporation counsel, for enforcement
19 or authorizing a local elections board created by a city, town, or village to refer any
20 complaint or matter investigated by it to the city, town, or village attorney,
21 respectively, for enforcement.

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1 (d) A provision authorizing the local elections board to issue subpoenas and
2 administer oaths for the purpose of carrying out its functions.

3 (e) A provision empowering the local elections board to issue a formal, written
4 opinion concerning the application of an ordinance enacted under s. 11.55 with
5 respect to an election within the jurisdiction of the local elections board to any person
6 upon request. No person acting in good faith upon a formal opinion issued to the
7 person by the local elections board is subject to prosecution for violation of the
8 applicable ordinance for so acting, if the material facts are as stated in the opinion
9 request.

10 (f) A provision directing the corporation counsel, or the district attorney if a
11 county does not have a corporation counsel, to provide counsel regarding the
12 administration of an ordinance enacted under s. 11.55 to a local elections board
13 created by a county or directing the city, town, or village attorney to provide counsel
14 regarding the administration of an ordinance enacted under s. 11.55 to a local
15 elections board created by a city, town, or village, respectively.

16 (h) A provision directing the county, city, town, or village clerk to provide
17 administrative support services to a local elections board created by a county, city,
18 town, or village, respectively.

19 **(3)** The creation of a local elections board under sub. (1) does not affect the
20 statutory authority or functions of the district attorney or the county, city, town, or
21 village clerk.

22 **SECTION 2.** 7.21 (1m) of the statutes is created to read:

23 7.21 **(1m)** If the city council or county board enacts an ordinance under s. 11.55
24 regarding the financing of elections for city or county offices, the city council or
25 county board shall, by ordinance, authorize the municipal or county board of election

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1 commissioners to enforce the ordinance enacted under s. 11.55. An ordinance
2 enacted under this subsection may contain such provisions with regard to the
3 functions and support of the municipal or county board of election commissioners as
4 are authorized under s. 7.19 (2) with regard to the functions and support of a local
5 elections board.

6 **SECTION 3.** 11.21 (18) of the statutes is created to read:

7 11.21 (18) Provide a copy of the software specified under sub. (16) to any person
8 who is required to submit campaign finance reports in electronic format under an
9 ordinance enacted under s. 11.55 (3) (e). The board shall fix the price of software
10 provided under this subsection at an amount that is not more than the cost.

11 **SECTION 4.** 11.55 of the statutes is created to read:

12 **11.55 Local regulation of campaign financing. (1) LIMITATION ON**
13 **CONTRIBUTIONS.** (a) *Elections for county office.* The board of supervisors of any county
14 may, by ordinance, regulate the making and acceptance of contributions with respect
15 to elections for county office. The ordinance may reasonably limit the contributions
16 that an individual or a committee may make with respect to an election for county
17 office and may reasonably limit the total contributions that an individual may make
18 in a calendar year with respect to all elections for county office. The maximum
19 amount of contributions that an individual or committee may make under the
20 ordinance may be less than the maximum amount for that contributor under s. 11.26
21 (1) (d), (2) (e), or (4). The ordinance may limit the total contributions that may be
22 transferred by a conduit with respect to an election for county office. The ordinance
23 may also prohibit a candidate or a committee from accepting any contribution made
24 or transferred in violation of the ordinance. In addition, the ordinance may
25 reasonably limit the aggregate amount of contributions that a candidate for county

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1 office may accept from committees. The maximum aggregate amount of
2 contributions that a candidate may accept from committees under the ordinance may
3 be less than the maximum amount for that candidate under s. 11.26 (9). The
4 ordinance may exempt from any limitation on contributions created under the
5 ordinance contributions received from a political party committee.

6 (b) *Elections for city office.* The common council of any city may, by ordinance,
7 regulate the making and acceptance of contributions with respect to elections for city
8 office. The ordinance may reasonably limit the contributions that an individual or
9 a committee may make with respect to an election for city office and may reasonably
10 limit the total contributions that an individual may make in a calendar year with
11 respect to all elections for city office. The maximum amount of contributions that an
12 individual or committee may make under the ordinance may be less than the
13 maximum amount for that contributor under s. 11.26 (1) (d), (2) (e), or (4). The
14 ordinance may limit the total contributions that may be transferred by a conduit with
15 respect to an election for city office. The ordinance may also prohibit a candidate or
16 a committee from accepting any contribution made or transferred in violation of the
17 ordinance. In addition, the ordinance may reasonably limit the aggregate amount
18 of contributions that a candidate for city office may accept from committees. The
19 maximum aggregate amount of contributions that a candidate may accept from
20 committees under the ordinance may be less than the maximum amount for that
21 candidate under s. 11.26 (9).

22 (c) *Elections for town office.* The board of supervisors of any town may, by
23 ordinance, regulate the making and acceptance of contributions with respect to
24 elections for town office. The ordinance may reasonably limit the contributions that
25 an individual or a committee may make with respect to an election for town office and

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1 may reasonably limit the total contributions that an individual may make in a
2 calendar year with respect to all elections for town office. The maximum amount of
3 contributions that an individual or committee may make under the ordinance may
4 be less than the maximum amount for that contributor under s. 11.26 (1) (d), (2) (e),
5 or (4). The ordinance may limit the total contributions that may be transferred by
6 a conduit with respect to an election for town office. The ordinance may also prohibit
7 a candidate or a committee from accepting any contribution made or transferred in
8 violation of the ordinance. In addition, the ordinance may reasonably limit the
9 aggregate amount of contributions that a candidate for town office may accept from
10 committees. The maximum aggregate amount of contributions that a candidate may
11 accept from committees under the ordinance may be less than the maximum amount
12 for that candidate under s. 11.26 (9).

13 (d) *Elections for village office.* The board of trustees of any village may, by
14 ordinance, regulate the making and acceptance of contributions with respect to
15 elections for village office. The ordinance may reasonably limit the contributions
16 that an individual or a committee may make with respect to an election for village
17 office and may reasonably limit the total contributions that an individual may make
18 in a calendar year with respect to all elections for village office. The maximum
19 amount of contributions that an individual or committee may make under the
20 ordinance may be less than the maximum amount for that contributor under s. 11.26
21 (1) (d), (2) (e), or (4). The ordinance may limit the total contributions that may be
22 transferred by a conduit with respect to an election for village office. The ordinance
23 may also prohibit a candidate or a committee from accepting any contribution made
24 or transferred in violation of the ordinance. In addition, the ordinance may
25 reasonably limit the aggregate amount of contributions that a candidate for village

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1 office may accept from committees. The maximum aggregate amount of
2 contributions that a candidate may accept from committees under the ordinance may
3 be less than the maximum amount for that candidate under s. 11.26 (9).

4 **(2) ELECTION CAMPAIGN FUND.** The board of supervisors of any county or town,
5 the common council of any city, or the board of trustees of any village may, by
6 ordinance, provide appropriations to pay for any lawful disbursements made by a
7 candidate for county, town, city, or village office, respectively. An ordinance enacted
8 under this subsection may establish reasonable qualifications that a candidate must
9 meet to receive funding from the county, town, city, or village. An ordinance enacted
10 under this subsection may require a candidate to agree, as a condition of receiving
11 funding, that he or she will make no contributions to his or her own campaign, no
12 disbursements, or neither contributions to his or her own campaign nor
13 disbursements, in excess of an aggregate amount specified in the ordinance. The
14 aggregate amount of disbursements specified in the ordinance may be less than the
15 applicable amount specified for that candidate under s. 11.31 (1) (g) or (h).

16 **(3) ADMINISTRATION.** (a) *County registration and reporting.* The board of
17 supervisors of any county may, by ordinance, require any committee, group, or
18 individual who or which is required to file a registration statement or report under
19 this chapter and who or which makes, transfers, or accepts contributions, incurs
20 obligations, or makes disbursements with respect to a county referendum or an
21 election for county office but for whom or which the county clerk is not the filing
22 officer under s. 11.02 or 11.20 to file with the county clerk by no later than the date
23 provided for filing the registration statement under s. 11.05 (12) (b) a copy of any
24 registration statement filed by the committee, group, or individual and to file with

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1 the county clerk by no later than the date provided for filing the report under s. 11.12
2 (5) or (6) or 11.20 a copy of any report filed by the committee, group, or individual.

3 (b) *City registration and reporting.* The common council of any city may, by
4 ordinance, require any committee, group, or individual who or which is required to
5 file a registration statement or report under this chapter and who or which makes,
6 transfers, or accepts contributions, incurs obligations, or makes disbursements with
7 respect to a city referendum or an election for city office but for whom or which the
8 city clerk is not the filing officer under s. 11.02 or 11.20 to file with the city clerk by
9 no later than the date provided for filing the registration statement under s. 11.05
10 (12) (b) a copy of any registration statement filed by the committee, group, or
11 individual and to file with the city clerk by no later than the date provided for filing
12 the report under s. 11.12 (5) or (6) or 11.20 a copy of any report filed by the committee,
13 group, or individual.

14 (c) *Town registration and reporting.* The board of supervisors of any town may,
15 by ordinance, require any committee, group, or individual who or which is required
16 to file a registration statement or report under this chapter and who or which makes,
17 transfers, or accepts contributions, incurs obligations, or makes disbursements with
18 respect to a town referendum or an election for town office but for whom or which the
19 town clerk is not the filing officer under s. 11.02 or 11.20 to file with the town clerk
20 by no later than the date provided for filing the registration statement under s. 11.05
21 (12) (b) a copy of any registration statement filed by the committee, group, or
22 individual and to file with the town clerk by no later than the date provided for filing
23 the report under s. 11.12 (5) or (6) or 11.20 a copy of any report filed by the committee,
24 group, or individual.

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1 (d) *Village registration and reporting.* The board of trustees of any village may,
2 by ordinance, require any committee, group, or individual who or which is required
3 to file a registration statement or report under this chapter and who or which makes,
4 transfers, or accepts contributions, incurs obligations, or makes disbursements with
5 respect to a village referendum or an election for village office but for whom or which
6 the village clerk is not the filing officer under s. 11.02 or 11.20 to file with the village
7 clerk by no later than the date provided for filing the registration statement under
8 s. 11.05 (12) (b) a copy of any registration statement filed by the committee, group,
9 or individual and to file with the village clerk by no later than the date provided for
10 filing the report under s. 11.12 (5) or (6) or 11.20 a copy of any report filed by the
11 committee, group, or individual.

12 (e) *Local filing of campaign finance reports; electronic format.* The board of
13 supervisors of any county or town, the common council of any city, or the board of
14 trustees of any village may, by ordinance, require a campaign finance report filed
15 with the county clerk, town clerk, city clerk, or village clerk, respectively, to be filed
16 by means of electronic transmission. An ordinance under this paragraph shall
17 require a person to use software obtained from the government accountability board
18 under s. 11.21 (18). The ordinance shall provide an exemption from filing by means
19 of electronic transmission for an indigent person. The ordinance may provide an
20 exemption from filing by means of electronic transmission for a person who or which
21 accepts contributions in an aggregate amount that is less than an amount specified
22 in the ordinance. The ordinance may require a person filing by means of electronic
23 transmission to file a signed copy of the report recorded on a medium specified in the
24 ordinance with the county clerk, town clerk, city clerk, or village clerk by no later
25 than the date prescribed for filing the report under the ordinance.

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1 (f) *Penalties.* The board of supervisors of any county or town, the common
2 council of any city, or the board of trustees of any village may, by ordinance, provide
3 for a forfeiture for any violation of an ordinance enacted under this section or any
4 agreement entered into under an ordinance enacted under this section.

5 (4) CERTIFICATION BY BOARD. The board shall promulgate rules establishing a
6 procedure for board review of each ordinance enacted under this section. The rules
7 shall require the board to certify each ordinance that complies with this section. An
8 ordinance enacted under this section is not effective in any county, city, town, or
9 village until the date on which the board certifies that the ordinance complies with
10 this section.

SECTION 5. Nonstatutory provisions.

11 (1) SUBMISSION OF PROPOSED RULES GOVERNING CERTIFICATION OF LOCAL CAMPAIGN
12 FINANCE ORDINANCES. No later than the first day of the 6th month beginning after the
13 effective date of this subsection, the government accountability board shall submit
14 in proposed form the rules governing certification of county, city, town, and village
15 campaign finance ordinances under section 11.55 (4) of the statutes, as created by
16 this act, to the legislative council staff under section 227.15 (1) of the statutes.

17 **SECTION 6. Effective dates.** This act takes effect on the first day of the 12th
18 month beginning after publication, except as follows:

19 (1) SECTION 5 (1) of this act takes effect on the day after publication.

20
21 (END)